

Unrelated trade or business; commercial advertising; legal notices. The publication of ordinary commercial advertising for products and services used by the legal profession in a bar association's journal is unrelated trade or business under section 513 of the Code. However, the publication of legal notices is not unrelated trade or business under section 513.

ISSUE

Under the circumstances described below, does publication of commercial advertising and legal notices in its journal by a bar association exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code constitute unrelated trade or business within the meaning of section 513?

FACTS

The bar association's purpose is to promote the interests of the legal profession and to supervise the practice of law within county B of state P. Membership is composed of practicing attorneys within B. The organization's activities include the publication of a legal journal containing opinions of the county court, articles of professional interest to lawyers, advertisements for products and services used by the legal profession, and legal notices. Fees are charged for the publication of the advertisements and the legal notices.

The legal notices are published in order to satisfy laws of P which require the publication of notices in connection with certain legal proceedings, such as the administration of estates and actions to quiet title to real property. Under P's rules of civil procedure, the association's journal is the designated place in B where the required notices must be published.

LAW AND ANALYSIS

Section 501(c)(6) of the Code provides for exemption from federal income tax of business leagues not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations provides that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a business ordinarily carried on for profit. The activities of the business league should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.

Section 513(a) of the Code defines the term 'unrelated trade or business' as any trade or business the conduct of which is not

substantially related (aside from the need of an organization for income or funds or the use it makes of the profits derived) to the exercise or performance by an organization of the purposes or functions constituting the basis for its exemption under section 501.

Section 513(c) of the Code provides that an activity does not lose its identity as trade or business merely because it is carried on within a larger complex of other endeavors which may be related to the exempt purposes of the organization.

Section 1.513-1(b) of the regulations provides that activities of soliciting, selling, and publishing commercial advertising do not lose their identity as an unrelated trade or business even though the advertising is published in an exempt organization's periodical which contains editorial matter related to the exempt purposes of the organization.

Section 1.513-1(d)(2) of the regulations provides that a trade or business is 'related' to exempt purposes, in the relevant sense, only where the conduct of the business activities has a causal relationship to the achievement of exempt purposes (other than through the production of income); and that it is 'substantially related,' for purposes of section 513 of the Code, only if the causal relationship is a substantial one. Thus, for conduct of trade or business to be substantially related to purposes for which exemption is granted, the performance of the services from which the gross income is derived must contribute importantly to the accomplishment of those purposes.

As indicated by section 513(c) of the Code and section 1.513-1(b) of the regulations, the publication of ordinary commercial advertising does not advance the exempt purposes of the association, even when published in a periodical which contains editorial material related to exempt purposes. Further, even though the advertising in this case is directed specifically to members of the legal profession, it is still commercial in nature and represents an effort on the part of the advertisers to maximize sales to a particular segment of the public. Therefore, the publication of the commercial advertisements does not contribute importantly to the exempt purposes of the bar association.

On the other hand, the publication of legal notices in this case is distinguishable from ordinary commercial advertising in that its purpose is to inform the general public of significant legal events rather than to stimulate demand for the products or services of an advertiser.

Under these circumstances, it is clear that the purpose directly served by publishing the legal notices is to provide the legal system in B county with a single, centralized source of information concerning significant legal events in that county. This promotes the common interests of the legal profession.

Therefore, the publication of the legal notices contributes importantly to the accomplishment of the association's exempt purposes, and thus is substantially related within the meaning of section 513 of the Code.

HOLDING

Under the circumstances described above, the publishing of ordinary commercial advertisements in its journal by a bar association exempt from federal income tax under section 501(c)(6) of the Code constitutes unrelated trade or business within the meaning of section 513. However, the publishing of legal notices does not constitute unrelated trade or business.